

रजिस्ट्रार नं० पी०/एस०एम० 14.



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, वीरवार, 13 सितम्बर, 1984/22 भाद्रपद, 1906

हिमाचल प्रदेश सरकार

VIGILANCE (ENFORCEMENT) DEPARTMENT

NOTIFICATION

Shimla-171002, the 11th September, 1984

No. PER (VIG) A-1 (1)/81.—Whereas the Government of Himachal Pradesh has decided to suitably modify the scheme of Directorate of Enforcement circulated to all the Secreta-

ries, Special Secretaries, Joint Secretaries, Deputy Secretaries, Under Secretaries, Heads of Departments, Managing Directors of all Corporation/Bodies in Himachal Pradesh *vide* letter No. Per. (Vig.) A. 1 (1)/81, dated the 27th March, 1981;

And whereasthe control of Barriers of Excise & Taxation and Forest Department has been transferred back to the respective Departments in public interest *vide* notification No. EXN B (1) 1/81, dated the 18th August, 1983.

Now, therefore, in partial modification of this Department Notification of even number, dated 28-2-1981, the Governor of Himachal Pradesh is pleased to order the amendment and modification of the scheme of Enforcement Directorate as per SCHEDULE-III annexed to this notification for achieving the following objectives :—

- (i) to undertake Enforcement work which includes checking and detection of leakage of Revenue in various Departments and implementation of various Laws as per SHCE-DULE-II of the Annexure enclosed ; and
- (ii) any other work assigned to the Enforcement Wing of the Vigilance Department from time to time by the Government by general or special order or any notification in this regard. This includes enquires/cases which were already in hand with the Flying Squads merged into the Enforcement Directorate at the time of its creation:

Provided that the Directorate of Enforcement will henceforth be called the Enforcement Wing of the Vigilance Department of the Government, and will have concurrent jurisdiction over the detection and prevention of crimes of leakage of Revenue and other offences mentioned in the SCHEDULE-II or any other notification in future; and that this Wing will have supplementary and complimentary functions to perform, and will not in any way erode the functions, duties and rights of different departments of the Government while doing so:

Provided further that functions, duties and jurisdiction of the Vigilance Department as detailed in letter No. 6-1/71-Vig., dated the 27th December, 1971 shall not in any way be curtailed or reduced by the creation of new Enforcement Wing of the Vigilance Department because the jurisdiction of the Vigilance Department covers any transaction in which a public servant is suspected to have indulged in corrupt practices or mis-conduct as per para 8 of Chapter I of the Vigilance Manual of the Government of Himachal Pradesh, Department of Vigilance, inspite of the fact that the same Manual shall be applicable to the Enforcement Wing for procedural matters in respect of public servants involved in enquiries and cases to be disposed of by the Wing:

Provided also that the staff posted at the Headquarters with the Inspector General of Police (Enft.) or in the Office of the D.I.G. (Enft.) and in the two Zones of the Wing detailed in SCHEDULE I shall be borne on the strength of the concerned departments from where they will be deployed to implement this scheme and will not be entitled to Deputation Allowance for the performance of functions and duties assigned to them;

And that the staff so deployed shall be under the Administrative Control of the Inspector General of Police (Vig. and Enft.)/D.I.G. (Enft.) and their salaries and allowances shall be paid from the Budget of the Enforcement Wing of the Vigilance Department for the duration of their posting in this Enforcement Wing of Vigilance Department.

SCHEDULE III

SCHEME OF ENFORCEMENT WING OF VIGILANCE DEPARTMENT—OBJECTIVES AND REASONS FOR CREATION OF THE SEPARATE WING:

(I) On 23rd January, 1981 a meeting was held under the Chairmanship of the Chief Secretary to the Government of Himachal Pradesh in which the Principal Secretary to the Chief Minister, the Senior Officers of the Vigilance Department, Forest Department, and Police Department were present to discuss the problems of illicit felling of trees in Himachal Pradesh. The consensus of opinion of the officers present in the meeting was that there should be a Directorate of Enforcement in Himachal Pradesh to prevent, check and detect forest offences. It was further decided that this Directorate of Enforcement should also be responsible for detection of economic offences in departments like Food and Civil Supplies, Cooperation Department, Excise & Taxation, Industries including Mines and Minerals and Transport. The functions of this new Directorate were to include the checking and detection of leakage of revenue in various departments. The necessity to have such a Directorate of Enforcement was felt because the Vigilance Department could only made enquiries into any transactions in which a public servant is suspected or alleged to have acted for an improper purpose or in a corrupt manner or the public servant exercised or refrained from exercising his powers with an improper or corrupt motive. Complaints of misconduct or lack of integrity or of any malpractice or misdemeanour on the part of a public servant are primarily looked into by the Vigilance Department. This Department, therefore, was not dealing with the Forest Contractors and private individuals, who indulged in malpractices and committed economic offences or other breaches of laws, the enforcement of which had become necessary to save and preserve national wealth.

(II) In the year 1983 vide notification No. Karmik (A.1) B (6)-3/83-D, dated 5-5-83, I.G. Police (Enf. & Vig.) was appointed and the Director of Enforcement and Police Officers working under him were re-designated as DIG Police (Enft.), S. P. (Enf.) etc., vide notification No. Per. (Vig.) B-7 (3)/81, dated the 7th November, 1983. The I. G. Police was additionally entrusted with the work of control and supervision of Anti Corruption Unit in the field. Therefore, Directorate of Enforcement, though an independent Department, is being treated as a separate wing of the Vigilance Department of the Government. It has no doubt separate Budget Head No. "265—Other Administrative Services (a) Vigilance (a) (ii) Directorate of Enforcement (NON-PLAN), yet the name, Directorate of Enforcement has become misnomer. As such the new organisation shall henceforth be called Enforcement Wing of the Vigilance Department.

(III) The new organisation will investigate, detect and prevent offences involving the State Government Funds, private persons and State Government employees as also violation of economic laws applicable in this State. In particular the Enforcement wing of the Vigilance Department will be responsible to deal with the following types of cases & enquiries:—

- (1) Offences regarding illicit felling, not only under the Indian Forest Act, 1927 but also under enactments Rules and Orders applicable and in force in Himachal Pradesh. It will include investigation, checking and inspections of private forests where certain contractors/firms operate, and may indulge in anti-social activities like felling of trees in Government areas by getting wrong demarcations done.
- (2) Enforcement of Essential Commodities Act, 1955, other Statutory Acts and Rules including the Prevention of Food Adulteration Act, 1954, H.P. Food Adulteration Rules, 1958 and other statutory orders, notification, circulars about various commodities issued by Food Supplies and Co-operation Departments, including the H.P. Hoarding and Profiteering Prevention Orders or similar order issued from time to time.

- (3) Excise and Taxation Laws and Orders including Dangerous Drugs Act, 1930 and Rules of 1957 made thereunder. As also checking of illicit distillation and enforcement of excise policy of the Government. Detection and prevention of leakage of Revenue of Sales Tax and other taxes realised through the Excise and Taxation Department. This includes the H.P. Agricultural Produce and Markets Act, 1969 and Goods Carried by Road Act, 1976.
- (4) Cases in which interests of the State or of any Public Undertaking or Statutory Corporation set up and financed by the State Government are involved.
- (5) Other economic crimes of serious nature committed by organised gangs or professional criminals and cases having inter-State ramifications.
- (6) All offences under H.P. Prevention of Specific Corrupt Practices Act, 1983 and any other Law or Act notified by the Government by amending or modifying Schedule-II of notification No. Per. (Vig.) A-1 (1)/81-Vol. II., dated the 23rd April, 1982.

Any attempt or abetment of such offences will also be within the jurisdiction of the Enforcement Wing of the Vigilance Department.

Hence this Enforcement Wing will have more area of operation than the Vigilance Department because its jurisdiction would extend beyond the scope of the Vigilance Department and it will also be able to deal with the private individuals contractors, shop-keepers and also public servants involved, or conspiring with them.

However, any case involving a public servants alone may be transferred by this Wing to the Vigilance Department if the Government so desires by a special order in writing.

The Commissioner-cum-Secretary (Vig.)/the I. G. Police (Enft. and Vig.) shall have the discretion to entrust any work to any officer or official of Enforcement Wing for the Anti-Corruption Unit and *vice-versa*, purely on temporary basis in individual cases/enquiries in public interest.

(IV) All articles or goods seized or to be seized by the officers/officials of this Enforcement Wing will be entrusted to the concerned departments and the I.G. Police (Enft.)/Dy. I.G. (Enft.) shall ensure that any wood or timber or any articles of goods taken into possession by officers of this Wing during any enquiry or investigation shall be transferred to the administrative department which would have normally been responsible for detection of the crime, without any loss of time so that there is no loss of property due to delay in legal action or proceedings, particularly with reference to the Indian Forest Act, 1927 and Indian Police Act, 1961 regarding the disposal of property.

Similar action would be taken by them in connection with the offences under the Transport, Excise and Taxation and Food and Supplies, Laws and Rules and Orders applicable to the Excise and Taxation, Food and Supplies, Co-operation and Transport Departments in this connection.

(V) The right of compounding and composition of offences will not be exercised by the officers of this Enforcement Wing.

(VI) These instructions are illustrative and not exhaustive, and will be supplemented/modified by Government as and when need arises.

(VII) All Heads of Departments shall co-operate and coordinate with this Enforcement Wing of Vigilance Department without delay, and will generally correspond demi-officially.

(VIII) The staffing pattern of this Wing shall be such as will be decided by the Government from time to time. But such members of staff will not be appointed on deputation basis nor shall the staff working in this organisation be entitled to deputation allowance.

(IX) The staff of this wing will be given special pay and other allowances admissible to the staff of the Anti Corruption Unit of Vigilance Department. For categories which are not obtaining in the Anti Corruption Unit, the special pay will be regulated by orders of the Government. Staff presently working under this Enforcement Organisation will have the option of reversion to their parent departments if the above provision is not acceptable to them.

SCHEDULE I

Column I

Column II

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| 1. Office of the Superintendent of Police (Enforcement), South Zone, Shimla. | South Zone Comprising Districts of Shimla, Sirmour, Bilaspur, Solan and Kinnaur. |
| 2. Office of the Superintendent of Police (Enforcement), North Zone, Dharamsala. | North Zone comprising Districts of Kangra, Chamba, Hamirpur, Una, Mandi, Kullu and Lahaul and Spiti. |

SCHEDULE II

1. All offences under the following sections of Indian Penal Code :
161, 162, 163, 164, 165, 165-A, 267, 406, 407, 408, 409, 411, 419, 420, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 477-A, 482, 483, 484, 486, 487, 481, 489.
2. All offences under the Essential Commodities, Act, 1955.
3. All offences under the Dangerous Drugs Act, 1930
4. All offences under the Motor Vehicle Act, 1939.
5. All offences under Indian Forest Act, 1927.
6. All offences under Punjab Excise Act, 1914 as applicable in Himachal Pradesh.
7. All offences under H. P. Forest (Sales of Timber) Act, 1968.
8. All offences under Prevention of Corporation Act, 1947.
9. All offences under Central Sales Tax Act, 1956.
10. All other offences committed in the course of transaction giving rise to any of the offences mentioned above.
11. Criminal conspiracy abetment and attempt to commit any of the offence mentioned above.
12. All offences under the H. P. Prevention of Specific Corrupt Practices Act, 1983.

By order,
K. C. PANDEYA,
Chief Secretary.

